

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

Nationstar Mortgage LLC d/b/a Mr. Cooper,
Plaintiff,

v.

William Henry a/k/a William A. Henry; Bank of
America, "JOHN DOE", said name being fictitious,
it being the intention of Plaintiff to designate any and
all occupants of premises being foreclosed herein, and
any parties, corporations or entities, if any, having or
claiming an interest or lien upon the mortgaged
premises,

Defendants.

Civil Action No. 2:20-cv-00039-WFK-RLM

STIPULATION TO VACATE AND SET ASIDE
THE DISMISSAL OF PLAINTIFF'S COMPLAINT
AND ORDER THEREON

Complaint Filed: January 3, 2020

Trial Date: None

TO THE COURT AND ALL INTERESTED PARTIES AND THEIR COUNSEL OF RECORD:

Plaintiff NATIONSTAR MORTGAGE LLC d/b/a MR. COOPER ("Plaintiff") and Defendant WILLIAM HENRY a/k/a WILLIAM A. HENRY ("Defendant") hereby stipulate to vacate and set aside the Court's *sua sponte* dismissal of Plaintiff's Complaint, dated February 2, 2023 and entered on February 3, 2023, and the resulting Clerk's Judgment entered on February 6, 2023.

RECITALS

WHEREAS on January 3, 2020, Plaintiff filed its Complaint, seeking to foreclose a mortgage held by plaintiff on defendant Henry's real property located at 287 Red Maple Drive South, Wantagh, NY 11793, and;

WHEREAS defendant Henry and plaintiff entered into a consent to judgement on Plaintiff's foreclosure claim, which was So -Ordered by the Court (ECF No.14), and;

WHEREAS the Court dismissed Plaintiff's Complaint, without prejudice, by an Order dated February 2, 2023 (ECF No. 25) that resulted in a Judgment of dismissal without prejudice entered on

February 6, 2023 (ECF No. 26) due to Plaintiff's failure to respond timely to the Court's status report order dated December 27, 2022, and;

WHEREAS subsequent to the entry of the dismissal, counsel for Plaintiff and Defendant met and conferred on a potential motion to set aside the dismissal and agreed to stipulate to set aside the dismissal; and

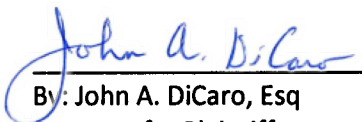
IT IS HEREBY STIPULATED by and between Plaintiff and Defendant, Henry that the Judgment of dismissal of Plaintiff's Complaint entered on February 6, 2023 and Order of dismissal dated February 2, 2023 and entered February 3, 2023, be vacated and set aside, and that Plaintiff shall file its application for Judgment within sixty (60) days of this stipulation.

GOOD CAUSE exists for the stipulated relief as Defendant Henry has already consented to Judgment and has vacated the property. Further the Plaintiff, took action to vacate the dismissal within one week of the entry of the Court's Order (see ECF No. 27) and has a justifiable excuse and good faith cause for the failure to timely respond. Finally, it is in the interest of justice to set aside defaults so that cases may be decided on their merits, particularly when doing so can be done through stipulation, rather than expending unnecessary court and party resources in unopposed motions.

IT IS SO STIPULATED.

DATE: March 21, 2023

LOGS LEGAL GROUP LLP



By: John A. DiCaro, Esq
Attorney for Plaintiff
Nationstar Mortgage LLC d/b/a/ Mr. Cooper

LAW OFFICES OF CRAIG ROBINS



By: Craig Robins, Esq.
Attorney for Defendant
William Henry a/k/a William A. Henry

ORDER

Pursuant to the parties' stipulation (ECF No. 28), IT IS HEREBY ORDERED that:

1. The Clerk's Judgment of dismissal of Plaintiff's Complaint entered on February 6, 2023 (ECF No. 26) and the Court's Order of dismissal dated February 2, 2023 and entered February 3, 2023 (ECF No. 25) are hereby vacated and set aside; and
2. Plaintiff, Nationstar Mortgage LLC d/b/a Mr. Cooper, shall file its application for Judgment within sixty days of entry of this order.

IT IS SO ORDERED

Dated: _____

UNITED STATES MAGISTRATE JUDGE